

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RICHARD A. GRISWOLD,)	
)	
Petitioner,)	8:10CV55
)	
v.)	
)	
TECUMSEH STATE CORRECTIONAL)	MEMORANDUM AND ORDER
INSTITUTION,)	
)	
Respondent.)	
_____)	

This matter is before the Court on petitioner's motion to appoint counsel (Filing No. [23](#)), motion for hearing regarding his motion to appoint counsel (Filing No. [24](#)), and motion in support of a hearing (Filing No. [25](#)).

Petitioner seeks the appointment of counsel for the third time in this matter. (See Filing Nos. [3](#), [21](#) and [23](#).) As the Court previously informed petitioner, "there is neither a constitutional nor statutory right to counsel in habeas proceedings; instead, [appointment of counsel] is committed to the discretion of the trial court." [McCall v. Benson, 114 F.3d 754, 756 \(8th Cir. 1997\)](#) (citations omitted). As a general rule, counsel will not be appointed unless the case is unusually complex or the petitioner's ability to investigate and articulate the claims is unusually impaired or an evidentiary hearing is required. See, e.g., [Morris v. Dormire, 217 F.3d 556, 558-59 \(8th Cir. 2000\)](#), [cert. denied, 531 U.S. 984 \(2000\)](#); [Hoggard v. Purkett, 29 F.3d 469, 471 \(8th Cir. 1994\)](#) (citations omitted);

see also Rule 8(c) of the [Rules Governing Section 2254 Cases in the United States District Courts](#) (requiring appointment of counsel if an evidentiary hearing is warranted). Upon review of the pleadings and petitioner's motion, there is no need for the appointment of counsel at this time.

IT IS ORDERED that petitioner's motion to appoint counsel (Filing No. [21](#)), motion for hearing regarding motion to appoint counsel (Filing No. [24](#)), and motion in support of hearing (Filing No. [25](#)) are denied.

DATED this 2nd day of July, 2010.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court

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